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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,720	03/30/2005	Bruno Bozionek	2002P10527WOUS	9102

7590   02/02/2010

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EXAMINER
PHUNG, LUAT

ART UNIT	PAPER NUMBER
2464	

MAIL DATE	DELIVERY MODE
02/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
Office Action Summary	10/529,720	BOZIONEK ET AL.	
	Examiner	Art Unit	
	LUAT PHUNG	2464	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 November 2009</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>20,21,23-27,29-32,35,36 and 39-46</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>20,21,23-27,29-32,35,36 and 39-46</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail. Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set
forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this
application is eligible for continued examination under 37 CFR 1.114, and the fee set
forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action
has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18
December 2009 has been entered.

Response to Amendment

2.   Applicant's arguments filed 18 December 2009 have been fully considered but
they are not deemed to be persuasive.

3.   Claims 20, 21, 23-27, 29-32, 35, 36 and 39-46 are pending and rejected.

4.   Claim 41 has been amended.

Response to Arguments

5.   On page 11, applicants argue that none of the cited art teach or suggest a
system that includes conversion between different transmission protocols by a
conversion device that then forwards the converted data to a telephone and/or video
conference data processing device selected to execute a teleconference as required by
claim 39.

          Examiner respectfully disagrees.

          As a recap of the rejection of claim 39, Avaramudan discloses wherein the data
conversion device (fig. 1; packet circuit gateway 111 in device server 101-3) forwards

data converted to the first protocol (fig. 1; protocol used by device 103-1) to the selected

telephone and/or video conference data processing device (fig. 1; conference bridge

107-N), (Fig. 1; col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line; col. 7, line 3;

device server translating protocol of a device, e.g., POTS phone, to a common control

call control protocol, such as that used in the data network, e.g., RTP/UDP, to the

conference bridge) which executes the teleconference among the first and second

clients and at least a third one of the clients; (conference bridge used to set up

conference call consisting of three or more devices per col. 4, lines 37-59, col. 6, lines

41-59)

        In Avaramudan, when a POTS phone communicates with an IP phone, the

packet circuit gateway in the device server connected to the POTS phone performs

protocol conversion (col. 3, lines 62+). The conversion is from POTS to a common call

control protocol (col. 3, line 55). Avaramudan further discloses that the packet circuit

gateway is not always needed, in particular when the device is already compatible with

the protocol employed by the data network (para. 4, lines 41+), where RTP/UDP

protocol is used (col. 6, lines 30+). The device servers send RTP/UDP packets directly

to the conference bridge when there's no need for packet circuit gateway (col. 7, lines

4+), i.e., no protocol conversion is necessary. Clearly, the common call control protocol

is RTP/UDP, i.e., a first data communication protocol, that of an IP phone. In summary

the packet circuit gateway performs protocol conversion from POTS to RTP/UDP, and

sends RTP/UDP packets to the conference bridge to set up a conference call.

Avaramudan further discloses the primary function of device server is to act as
an interface between the data network and a legacy network, i.e., performing protocol
conversion between IP network and a specific signaling protocol of the legacy network,
thereby shielding call coordinator from specific signaling protocols of the legacy
networks. (col. 4, lines 16+) Clearly device driver converts a POTS protocol of the
legacy network to IP protocol of the IP network. (col. 4, lines 31-32)

Thus the prior art of record teaches the limitation "conversion between different
transmission protocols by a conversion device that then forwards the converted data to
a telephone and/or video conference data processing device selected to execute a
teleconference".

6.   On page 12, applicants argue that there's no teaching or suggestion of
monitoring the devices processing a teleconference request after that teleconference
has been set up.

Examiner respectfully disagrees.

As a recap of the rejection of claim 39, Avaramudan discloses wherein the
resource control device determines when the selected telephone and/or video
conference data processing device cannot process a request and causes another of the
telephone and/or video conference data processing devices to take over the request.
(abstract; claim 2; col. 8, lines 7-33; device servers and device transmit to and receive
from conference bridge during conference call; in the event a user or device server is
dropped from conference, the call coordinator evaluates the conference call as it will be

with one less conferee and selects a conference bridge for the call, and as necessary a conference call which may already be using the selected bridge can itself be reassigned to another bridge; col. 7, lines 60 to col. 8, line 5; Fig. 3 shows how conference call in Fig. 2 is changed after some device servers are dropped and another device server is added, causing another conference bridge to be selected; col. 4, lines 16-29, col. 7, lines 8-24).

Clearly Avaramudan teaches "monitoring the devices processing a teleconference request after that teleconference has been set up" in order to add or remove participants after conference call has been set up.

7.   On page 13, applicants argue that none of the cited references teach a resource control device nor a transmission protocol conversion of a gatekeeper, and that none of the cited references teach a computer as required by claim 41.

Examiner respectfully disagrees.

As recited above, at least Avaramudan teaches a resource control device (fig. 1; call coordinator 105) and a transmission protocol converter (fig. 1; packet circuit switch gateway). Furthermore, as recited in the office action in the rejection of claim 41, Pinard ("PBX Implemented Using H.323 Gatekeeper") from the same or similar fields of endeavor discloses implementing H.323 standard, including the H.323 gatekeeper, in a PBX with full functionality (col. 2, lines 10-18). Jeong further discloses a gatekeeper in a PBX implementing conversion to support connections between H.323 and PSTN endpoints (col. 4, lines 55+) Clearly claim 41, which recites "a computer comprising: a

plurality of telephone and/or video conference data processing devices..., a

gatekeeper..., and a resource control device...", reads onto the PBX comprising

conference bridges, gatekeeper, and call coordinator of the combination of Jeong,

Avaramudan, Detampel and Pinard as recited in the office action.

It is further noted that the structure of the claimed computer comprising a plurality

of conference devices, a gatekeeper, and a resource control is not distinguished from

the structure of the Jeong in view of Avaramudan, Detampel and Pinard that comprises

a PBX comprising conference bridges, a gatekeeper, and a call coordinator (MPEP

2114).

Claim Objections

8.   Claim 39 is objected to because of the following informalities:

Claim 39 is tagged as "Previously Presented"; the previous version of the claims

recites, on line 6, "a plurality of ... data processing <u>devices</u>"—i.e., the word –devices–

should be added after "data processing".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this
> title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

11.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

    1.   Determining the scope and contents of the prior art.
    2.   Ascertaining the differences between the prior art and the claims at issue.
    3.   Resolving the level of ordinary skill in the pertinent art.
    4.   Considering objective evidence present in the application indicating
            obviousness or nonobviousness.

12.   Claims 20, 21, 23-27, 29-32, 39, 40 and 42-46 are rejected under U.S.C. 103(a)

as being unpatentable over Jeong (US 6,801,540), in view of Avaramudan, et al (US

6,584,076), and further in view of Detampel, et al. (US Pub. 2001/0002927).

        Regarding **claims 39 and 42**, Jeong discloses a data communications method

for use in a data communications system comprising:

        a plurality of clients (terminals per Fig. 1, elements 300's, 400's, 500's)

connected by at least one network (LAN per Fig. 1) to a private branch exchange (PBX)

(Fig. 1, element 100), wherein a first of the clients (terminals in PSTN per Fig. 1,

elements 300s) communicates with the PBX using a first data transmission protocol

(PSTN signal per col. 4, lines 51-61), and a second of the clients (H.323 terminals per

Fig. 1, elements 400s) communicates with the PBX using a second data transmission

protocol, the first data transmission protocol being different than the second data

transmission protocol; (H.323 signal, which is different from PSTN signal, per col. 4,

lines 51-61; col. 4, lines 6-50)

a data conversion device supporting both the first and second data transmission

protocols, wherein the data conversion device converts transmission data between the

first and second protocols (H.323 gateway converting PSTN signals and H.323 signals

per col. 4, lines 51-61; call converter converting between H.323 and proprietary

protocols per col. 4, lines 20-50; Fig. 1)

Jeong does not explicitly disclose:

a plurality of first telephone and/or video conference data processing devices

supporting the first data transmission protocol;

a resource control device that selects one of the first telephone and/or data

processing devices to execute a teleconference based on a telecommunications load

and resource availability;

wherein the data conversion device forwards data converted to the first protocol

to the selected telephone and/or video conference data processing device, which

executes the teleconference among the first and second clients and at least a third one

of the clients;

wherein the resource control device determines when the selected telephone

and/or video conference data processing device cannot process a request and causes

another of the telephone and/or video conference data processing devices to take over

the request.

Avaramudan from the same or similar fields of endeavor discloses:

a plurality of first telephone and/or video conference data processing devices

supporting the first data transmission protocol; (Fig. 1; col. 3, line 53 to col. 4, line 36,

col. 4, line 51 to last line; conference bridge 107 together with a device server 101

communicating with a device 103, which is an IP or POTS phone; for example, device

103-1 may be an IP phone in the data network per col. 4, lines 45-49, using protocol

such as RTP/UDP per col. 7, line 3)

a resource control device that selects one of the first telephone and/or data

processing devices to execute a teleconference based on resource availability; (call

coordinator selecting conference bridge as function of capabilities to achieve the

desired conference call per col. 6, lines 42-59) it is obvious to one of ordinary skill in the

art at the time of the invention that a conference bridge, a system resource, must be

available to be selected to set up a conference call;

wherein the data conversion device (fig. 1; packet circuit gateway 111 in device

server 101-3) forwards data converted to the first protocol (fig. 1; protocol used by

device 103-1) to the selected telephone and/or video conference data processing

device (fig. 1; conference bridge 107-N), (Fig. 1; col. 3, line 53 to col. 4, line 36, col. 4,

line 51 to last line; col. 7, line 3; device server translating protocol of a device, e.g.,

POTS phone, to a common control call control protocol, such as that used in the data

network, e.g., RTP/UDP, to the conference bridge) which executes the teleconference

among the first and second clients and at least a third one of the clients; (conference

bridge used to set up conference call consisting of three or more devices per col. 4,

lines 37-59, col. 6, lines 41-59)

wherein the resource control device determines when the selected telephone

and/or video conference data processing device cannot process a request and causes

another of the telephone and/or video conference data processing devices to take over

the request. (abstract; claim 2; col. 8, lines 7-33; device servers and device transmit to

and receive from conference bridge during conference call; in the event a user or device

server is dropped from conference, the call coordinator evaluates the conference call as

it will be with one less conferee and selects a conference bridge for the call, and as

necessary a conference call which may already be using the selected bridge can itself

be reassigned to another bridge; col. 7, lines 60 to col. 8, line 5; Fig. 3 shows how

conference call in Fig. 2 is changed after some device servers are dropped and another

device server is added, causing another conference bridge to be selected; col. 4, lines

16-29, col. 7, lines 8-24).

Thus it would have been obvious to the person of ordinary skill in the art at the

time of the invention to implement the conference bridges and call coordinator as

suggested by Avaramudan in the PBX of Jeong since it has been held that rearranging

parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

The motivation for doing so would have been to support conference calling in the PBX.

The combination of Jeong and Avaramudan discloses all of the subject matter

except a resource control device that selects one of the telephone and/or data

processing devices *based on a telecommunications load*. Detampel from the same or similar fields of endeavor discloses determining if sufficient ports are available (Fig. 5, element 503) and accordingly selecting a conference bridge considering load control and routing cost and using criteria including availability, load control, least-cost routing and component failure, for example, selecting one with the most available conferencing ports (para. 5, 57). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the PBX with conference bridges of Jeong and Avaramudan with the conference bridge selection of Detampel by selecting one for teleconference based on load and resource availability in order to improve utilization of conference resources.

Regarding **claim 20**, Avaramudan further discloses wherein the first telephone and/or video conference data processing devices and the data conversion device are arranged in a computer. (col. 2, line 61 to col. 3, line 17) It is noted that it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1993).

Regarding **claim 21**, Avaramudan further discloses wherein the computer is a server. (col. 2, line 61 to col. 3, line 17)

Regarding **claim 23**, Jeong further discloses wherein the second data transmission protocol is an open, standardized protocol. (col. 4, line 28)

Regarding **claim 24**, Jeong further discloses wherein the second data transmission protocol is an H.323 or H.225/H.245-based protocol or an SIP-based protocol. (col. 4, line 28)

Regarding **claim 25**, Jeong further discloses wherein the first data transmission protocol is a proprietary or generic protocol. (col. 4, line 28)

Regarding **claim 26**, Jeong further discloses wherein the first data transmission protocol is a PCM-based protocol or TDM-based protocol. (col. 4, lines 51-52)

Regarding **claim 27**, Jeong further discloses wherein the first and/or the second data transmission protocol is a TCP/IP-based data transmission protocol. (col. 4, line 28)

Regarding **claim 29**, Jeong further discloses wherein one or more of the clients are connected to an Intranet data network. (Fig. 1; col. 4)

Regarding **claim 30**, Jeong further discloses wherein one or more of the clients are arranged outside the Intranet data network. (Fig. 1; col. 4)

Regarding **claim 31**, Examiner takes official notice that it is well known in the art at the time of the invention that one or more of the clients are configured to be connected to a further Intranet data network.

Regarding **claim 32**, Jeong in view of Avaramudan and Detampel further discloses wherein the first telephone and/or video conference data processing devices are connected to the Intranet data network. (Fig. 1; col. 4)

Regarding **claims 40 and 43**, Detampel further discloses wherein the resource control device is in the PBX (para. 3) and selects from among the first telephone and/or

data processing devices in the PBX (para. 3; PBX supporting conference) and from

among further first telephone and/or data processing devices in an external network that

are directly or indirectly connected to the PBX to execute the teleconference. (para. 16;

conference bridges in geographically diverse location within a single conferencing

system)

Regarding **claim 44**, Avaramudan further discloses wherein the teleconference is

a video teleconference or video conference. (col. 6, line 20)

Regarding **claim 45**, Jeong in view of Avaramudan and Detampel further

discloses wherein the data conversion device is a gatekeeper or a gatekeeper module.

(Fig. 1, H323 Gate Keeper 15)

Regarding **claim 46**, Jeong in view of Avaramudan and Detampel further

discloses wherein the at least one network is at least one Intranet data network. (Fig. 1;

col. 4)

13.   Claims 35-36 are rejected under U.S.C. 103(a) as being unpatentable over

Jeong, in view of Avaramudan, et al and Detampel, et al, and further in view of Potter, et

al (US Pub. 2001/0043608).

Regarding **claim 35**, the combination of Jeong, Avaramudan and Detampel

discloses all of the subject matter as recited previously in this office action except

wherein an additional telephone and/or video conference data processing device

supporting the second data transmission protocol is provided, which can be used

instead of the telephone and/or video conference data processing device. Potter from

the same or similar fields of endeavor discloses a virtual PBX supporting supplementary services such as conference calling using CSTA (para. 29, 35-48). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement CSTA as suggested by Potter in the conference bridge in the PBX of Jeong, Avaramudan and Detampel during the selection of the conference bridge. The motivation for doing so would have been to support conference calling for different protocols.

Regarding **claim 36**, Jeong in view of Avaramudan, Detampel and Potter discloses wherein the additional telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the additional telephone and/or video conference data processing device is arranged outside the Intranet data network is connected to a further Intranet data network. (Fig. 1; col. 4)

14. Claim 41 is rejected under U.S.C. 103(a) as being unpatentable over Jeong, in view of Avaramudan, et al, Detampel, et al., and further in view of Pinard, et al (US 6,819,665).

Regarding **claim 41**, the combination of Jeong, Avaramudan and Detampel discloses a system, as recited above in the rejection of claim 39, but not *a computer* comprising the devices, the interface in a gatekeeper module and the resource control device. However, Pinard ("PBX Implemented Using H.323 Gatekeeper") from the same or similar fields of endeavor discloses implementing H.323 standard, including the H.323 gatekeeper, in a PBX with full functionality (col. 2, lines 10-18). Jeong further

discloses a gatekeeper implementing conversion to support connections between H.323

and PSTN endpoints (col. 4, lines 55+) Thus it would have been obvious to the person

of ordinary skill in the art at the time of the invention to combine the system of Jeong,

Avaramudan and Detampel with the network PBX of Pinard by integrating the

components into a computer since it has been held that rearranging parts of an

invention involves only routine skill in the art. *In re Japikse, 86 USPQ 70.* The

motivation for doing so would have been to incorporate an emerging standard for multi-

media communication to voice communications traditionally implemented in a PBX.

Conclusion

15.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure (see form 892).

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to LUAT PHUNG whose telephone number is (571) 270-

3126. The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM -

4:00 PM.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
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/L. P./

Examiner, Art Unit 2464

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2464